

III. REMARKS

Claims 1-20 are pending in this application. By this Amendment, claims 1, 9 and 14 have been amended. The amendments are provided to facilitate an early allowance of the claimed subject matter. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. §1.116(b) because the Amendment: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Specifically, the newly added limitation has already been considered by the Office and no new search is required. Accordingly, Applicants respectfully request entry of this Amendment.

In the Office Action, claims 9-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the Office alleges that claims 9-13 are not limited to tangible embodiments because the computer useable medium in claim 9 includes “intangible embodiment”, e.g., transmission media. Applicant respectfully traverses this assertion. A transmission media, e.g., a carrier signal, is recognized as a physical carrier. *Arrhythmia Research Tech. v. Corazonix Corp.*, 958 F.2d 1053, 1059 (Fed. Cir. 1992). In addition, a carrier signal modulated with computer program codes that cause a computer system to perform a process has been ruled as statutory subject matter. *In re Berauregard*, 53 F.3d 1583 (Fed. Cir.

1995). As such, claims 9-13 are directed to statutory subject matter. Nevertheless, by this Amendment, claim 9 has been amended to include “tangible” computer usable medium for clarification purposes.

In the Office Action, the Office asserted that the current invention does not disclose that a transmission media is a carrier signal. Applicant respectfully disagrees because a carrier signal is a way of transmitting data and is thus included as a transmission media. A carrier signal is the only example of a transmission media that may be confused as intangible. If the Office asserts that a transmission media is intangible and is not a carrier signal, Applicant respectfully requests the Office specify how it interprets a transmission media as intangible. Otherwise, Applicant respectfully requests the Office withdraw the rejection.

In the Office Action, the Office also requests Applicant to clarify where in the specification it is stated that the transmission media is a carrier signal modulated with computer program code. Applicant respectfully submits that in the specification, the transmission media is an example of memory 22 which stores program product 32. (See, e.g., paragraphs 26-27 and FIG. 2.) If the transmission media is specified (as an example) as a carrier signal, the carrier signal will be modulated with program product 32. Applicant submits that the mechanisms of data storage in a memory, data transmission, and data modulation in transmission/a carrier signal are well known in the art such that the current specification is sufficient to provide antecedent basis for the claims, e.g., claim 9. In view of the foregoing, the claimed “tangible computer useable medium” includes a carrier signal and is tangible. Applicant respectfully requests withdrawal of the rejection under 35 U.S.C. 101.

In the Office Action, claims 1-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Farchi et al. (US Pub. No. 2003/0046613), hereinafter “Farchi.” Applicant respectfully traverses this rejection for the reasons stated below.

With respect to independent claims 1, 9 and 14, Applicants submit that Farchi does not disclose, *inter alia*, “providing at least one test script configured to conduct a test at each module and each interface point[.]” (Claim 1, similarly claimed in claims 9 and 14). Farchi only discloses creating a test suite comprising test cases, i.e., “individual programs which carry out the tasks to be accomplished as identified by the coverage criteria.” (¶ 0003). Farchi does not include providing at least one test script to conduct a test at each module and each interface point. Farchi is related to measuring test coverage but never goes to the details of the software system to be tested. As such, Farchi does not disclose that the system to be tested includes a module and/or an interface point, and does not disclose at least one test script for each module and/or interface point.

In the Office Action, the Office asserts that Farchi discloses the above feature by disclosing testing a client program for opening a connection to a server. Applicant respectfully disagrees because the Farchi disclosure at paragraph 0012 only discloses a coverage criteria of a testing, i.e., whether to test all four methods or less than all four methods for opening a connection. Farchi does not disclose the details of the claimed invention, e.g., at least one test script to conduct a test at each module and each interface point. For example, Farchi does not disclose a module and an interface point.

Moreover, in the claimed invention, a test script, by definition, resides at the respective module or interface point (see current application at ¶ 0033). The test suite, or test cases, of Farchi does not reside at the software system to be tested. In the

Office Action, the Office asserts that this feature is not recited in the claims. By this Amendment, claims 1, 9 and 14 have been amended to include this limitation. In view of the foregoing, Farchi does not anticipate the claimed invention as amended herein.

In addition, Farchi does not disclose, *inter alia*, “generating a test map for each test goal, each test map configured to run at least one test script for each module and each interface point in accordance with the test goal[.]” (Claim 1, similarly claimed in claims 9 and 14). The test suite in Farchi includes test cases to achieve test tasks. However, Farchi does not disclose a sequence of the running of the test cases. In contrast, “a ‘test map’ (in the claimed invention) is a sequence of stored test cases to be run in sequence for each module and interface point in accordance with a test goal.” (Current application at ¶ 0032, parenthetical explanation added). As such, Farchi does not include a test map as in the claimed invention. Applicant submits that the assertions of the Office regarding creating test cases and revising test cases (Office Action at page 3, section (c)) are irrelevant to this feature of the claimed invention because they are not related to a test map. In view of the foregoing, Applicant submits that Farchi does not anticipate the claimed invention, and respectfully requests withdrawal of the rejection.

The dependent claims are believed allowable for the same reasons stated above, as well as for their own additional features.

In light of the above remarks, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

/Spencer K. Warnick/

Spencer K. Warnick
Reg. No. 40,398

Date: July 23, 2007

(JZ)

Hoffman, Warnick and D'Alessandro, LLC
75 State Street, 14th Floor
Albany, New York 12207
Phone: (518) 449-0044
Fax: (518) 449-0047